

Notice of Allowability

Application No.

09/473,683

Examiner

Pankaj Kumar

Applicant(s)

PALM, STEPHEN

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/16/2004.
2. ☒ The allowed claim(s) is/are 17-20,22-24 and 52-59.
3. ☒ The drawings filed on 29 December 1999 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 6,8,10,11/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date hereto.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

**TESFALDET BOOURE
PRIMARY EXAMINER**

Art Unit: 2631

8/2/2004

Message was left by Steve Wegman which requested the application to be in front of me when I call.

After I received the application, I called applicant's representative, Steve Wegman. Applicant's representative said that his invention is so novel that it was incorporated as a standard in the ITU.

Applicant's representative said that objected claim 21 was incorporated into independent claim 17 but claim 17 was still rejected.

The examiner said that claim 21 was dependent on claim 20 which was dependent on claim 17. Claim 21 was incorporated into claim 17 without incorporating the limitations of claim 20. It was valid to make the action final since the limitations of claim 20 did not exist in claim 17.

Applicant's representative said that allowed claim 53 is exactly like claim 17 except that claim 17 does not use C-TONES and R-FLAG while claim 53 does. So this casts doubt on the allowability of claim 53.

The examiner said that claims 53 and 17 have different limitations and thus the rejection of claim 17 does not cast doubt on the allowability of claim 17. A number superiors have signed actions indicating that claim 53 is allowed while claim 17 is rejected so it is not merely a determination of one person. The claims are read in light of the specification. So the recitation of signals C-TONES and R-FLAG are much more specific in claim 53 than claim 17's recitation of selected signal and second predetermined signal when read in light of the specification. For example, the specification indicates that during a startup session, there are handshaking (HS) state(s) of the XDSL central terminal unit at the conclusion of the C-TONES signal. So the fact that the signal is named C-TONES is given considerable weight and its definition is read in light of the specification.

In an earlier part of claim 53, it discussed transmitting a C-TONES signal and it was indicated that it would be obvious to rename the signal. That section of the claim discussed transmitting a C-TONES signal and so what was meant was that both the reference and the application are transmitting a signal although the signals are named differently between the application and the reference. However, when there is a stopping of the transmission of the C-TONES signal, as claimed in claim 53, there is a state associated with that in the figures. For claim 17, since the C-TONES signal is not named, a state cannot be associated with that in light of the specification. Thus, claim 17 is broader than claim 53.

As another example, C-TONES indicates a specific type of signal associated with the central terminal unit and the R-FLAG indicates a specific type of signal associated with the remote terminal unit. There is no such link of the signals with the units in claim 17 since claim 17 merely uses generic signal names.

Art Unit: 2631

Applicant's representative asked if adding the following to claim 17 "Wherein the selected signal is associated with the central terminal unit and the second predetermined signal is associated with the remote terminal unit" would make the application allowable. The examiner said he would discuss this with his supervisor.

Applicant's representative brought up the interview from May of 2004. In an action signed by primary examiner Themesghen in paper 20 in April of 2004 (prior to the interview), there were certain claims indicated to be objected. During and after the May interview, Themesghen found a new prior art that he believes reads on the applicant's objected claims. Applicant's representative was informed of this new reference during the interview in May. I told applicant's representative during today's interview that Themesghen has been transferred to another group so he no longer signs my office actions and accordingly I will discuss the reference with my supervisor.

8/10/2004

Examiner called applicant's representative and told him that after discussing the application with the supervisor, the office does not believe that the above proposed limitation to claim 17 is allowable. However, if applicant adds the following limitation to claim 17, then the office believes it would be allowable: wherein the halting of the selected signal and the second predetermined signal are associated with a change in system state. Applicant's representative said he will contact the client and file an appropriate response.

Applicant's representative had asked about removing the phase reversal limitation. I said that would require further consideration.

Note: After further review of the reference 4,661,417, cited by the primary examiner Themesghen, it is believed that the patent number of the reference was incorrect (as this reference deals with composite of metal and does not at all seem to be related to the application) and it should probably have been 4,771,417. Reference 4,771,417 had been cited in a prior action and it was noted at that time that this reference is lacking certain claim limitations of the applicant.

TESFALU: BULTRE
PRIMARY EXAMINER

